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Dated: August 12, 2005

Signature:

*[Signature]*  
(Hathaway Pease)

Docket No.: IMI-044DV3CNRCE  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Malcolm L. Geftter *et al.*

Application No.: 09/662784

Confirmation No.: 3152

Filed: September 15, 2000

Art Unit: 1647

For: A HUMAN T CELL REACTIVE FELINE  
PROTEIN (TPFP) ISOLATED FROM HOUSE  
DUST AND USES THEREFOR

Examiner: Sharon L. Turner

**RESPONSE TO RESTRICTION REQUIREMENT**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action dated May 12, 2005 setting forth a Restriction Requirement under 35 U.S.C. §121 as follows:

Peptides containing the following epitope portions:

- a. Fel 16 (residues 20-41 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- b. Fel 17 (residues 31-52 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- c. Fel 32-1 (residues 31-43 of SEQ ID NO:6) classified for example in class 350, subclass 300.

- d. Fel 32-2 (residues 33-43 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- e. Fel 32-3 (residues 35-43 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- f. Fel 18 (residues 42-67 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- g. Fel 33-1 (residues 45-55 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- h. Fel 33-2 (residues 45-57 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- i. Fel 33-3 (residues 45-59 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- j. Fel 31-1 (residues 33-59 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- k. Fel 31-2 (residues 33-58 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- l. Fel 31-3 (residues 33-57 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- m. Fel 31-4 (residues 33-56 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- n. Fel 31-5 (residues 33-55 of SE ID NO:6) classified for example in class 350, subclass 300.

- o. Fel 31-6 (residues 34-59 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- p. Fel 31-7 (residues 34-55 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- q. Fel 20-1 (residues 53-78 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- r. Fel 25 (residues 68-87 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- s. Fel 28 (residues 79-101 of SEQ ID NO:6) classified for example in class 350, subclass 300.

In particular, the Examiner states that the claims present “a substantial number of patentably distinct peptides having various epitope containing portions . . . While the claims remain drawn in part to elected SEQ ID NO:6, and will be examined to that extent, the newly recited peptides drawn to the extent of different epitope containing portions each define new generic recitations.”

Accordingly, Applicants hereby elect **Group J, Fel 31-1 (residues 33-59 of SEQ ID NO:6)**, with traverse. For the reasons set forth in detail below, Applicants respectfully traverse and request reconsideration of the Examiner’s restriction of the claims to the extent that, at least, Groups D-E, G-I, and K-P (drawn to sequences which are encompassed by elected Group J) be re-grouped and examined together with Group J in the instant application. Moreover, Applicants respectfully request rejoinder of all the Groups.

Contrary to the Examiner’s assertion, the claimed epitope containing portions of SEQ ID NO:6 represented by Groups A-S share structural and functional features and, therefore, are not patentably distinct. As a preliminary matter, all of the claimed epitope portions of SEQ ID NO:6 are connected by *design*: they are from a single amino acid sequence, and thus, share the same

overall chemical structure. In addition, while the claimed epitope portions of SEQ ID NO:6 may be capable of numerous therapeutic properties, they are connected in *operation* and *effect*, *e.g.*, the claim recites that the composition “can be used to reduce an allergic response to a cat antigen in an individual sensitive to said antigen,” and, thus, specifies the function of all of the epitope portions of SEQ ID NO:6. Accordingly, the claimed peptides, and epitope containing portions thereof, represent different embodiments of a single inventive concept for which a single patent should issue.

Further, Applicants respectfully submit that examination of Groups A-S together in the present application would be co-extensive and would not require undue burden on the Examiner. As the M.P.E.P. states:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. M.P.E.P. § 803.

In particular, Applicants note that all of the peptides encompassed by Groups D-E, G-I, and K-P are subportions of the peptide sequence encompassed by elected Group J, *i.e.*, are fully encompassed by Group J. Accordingly, a prior art search of Group J would include and be co-extensive of the prior art searches of Groups D-E, G-I, and K-P. Indeed, the inventions of Groups D-E, G-I, and K-P belong to the same search class and subclass (350/300). In fact, all of the inventions of Groups A-S belong to the same search class and subclass and share the same design, operation and effect, as described above. Moreover, Applicants note that all the inventions of Groups A-S demonstrate significant overlap. In short, only six (6) of the total number of peptides do not share 100% overlap, and even those share at least some amino acid residues.

Applicants respectfully invite the Examiner’s attention to the policy set forth in 1192 O.G. 68. In accordance with that policy, a reasonable number of sequences are allowed to be claimed in a single application, and it has been determined that normally ten sequences constitute a reasonable number for examination purposes and, thus, up to ten independent and distinct sequences are often examined in a single application, without restriction (M.P.E.P. §804.4). In the interest of savings of time and cost to Applicants and the Patent Office,

Applicants respectfully request that the epitope containing portions be re-grouped as a single invention. Given the significant overlap in chemical structure and identical claimed function of the epitope containing portions of Groups D-E, G-I, and J-P, Applicants respectfully request that, at a minimum, these Groups be re-grouped and examined in the instant application.

Finally, it is the Applicants' understanding rejoinder will be considered upon the determination of allowable and linking subject matter as defined within the claims.

### **CONCLUSION**

If a telephone conversation with Applicants' Attorney would expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Applicants believe no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. IMI-044DV3CNRCE from which the undersigned is authorized to draw.

Dated: August 12, 2005

Respectfully submitted,

By 

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